

Frey, Bert

From: Nelson, Leverett
Sent: Thursday, June 09, 2016 5:11 PM
To: R5 ORC ALL ATTORNEY
Subject: Announcement of Two GS-15 Staff Attorney Positions
Attachments: GS-15 position description - Clean Air Act enforcement and legal counsel....doc; GS-15 position description - Clean Water Act enforcement and legal counsel....doc

Dear ORC:

I am announcing the opportunity for eligible Region 5 ORC attorneys to apply for the following two GS-15 attorney positions: 1) Senior Counsel for Air Enforcement and Counseling and 2) Senior Counsel for Water Enforcement and Counseling. As you will see by reviewing the appended position descriptions (PDs), the GS-15 positions being offered at this time are extremely challenging but rewarding as well. Please review these PDs carefully before deciding whether to apply, as they will give you a clearer understanding of the expectations that will be placed upon the person selected for the position. Please also indicate whether you are applying for one or both of the positions.

To be considered for these positions, you must already be a GS-15 attorney or have at least one year of relevant experience as an attorney at the GS-14 level. An applicant must have an LL.B. or J.D. from an accredited law school; admission to practice before the highest court of a State, U.S. territory, the District of Columbia, or the Commonwealth of Puerto Rico; and active status as a member of the bar in one of those jurisdictions. To apply, you must submit in hard copy: (1) a current resume, and (2) an expression of interest that describes (4 pages or less, 12-point font, default margins) examples of your work experience and addresses how you would perform the major duties and responsibilities set forth in the position description of the job you are applying for.

Please note that prior experience in the particular subject matter area is not a prerequisite for selection to the position. It is management's assumption that an attorney who clearly exhibits the levels of responsibility, experience and skills identified in the position descriptions should be able to quickly develop the expertise to operate at the GS-15 level, as described in these PDs. Thus, the management team encourages applicants who believe they would be qualified to apply for one (or both) of the offered positions. While, as noted above, particularized experience is not a prerequisite to the positions, it will be a factor that management considers in the overall selection process. Therefore, your expression of interest should identify any knowledge, skill or experience you have that would be directly relevant, or transferable, to a position.

The major duties and responsibilities and supervisory controls for each position are set forth in the position description for that position. A summary of the major duties and responsibilities of the positions and supervisor controls (last two bulleted items below) for the positions is set forth below.

- Within the area of specialized legal expertise, provides advice on legal questions or factual issues that are extremely complex and difficult, requiring a high order of original and creative legal endeavor in order to achieve a reasonable balance of conflicting interests.
- Within the area of specialized legal expertise, serves as the focal point within the Region for resolution of legal issues arising under the relevant statute(s) (for matters of national importance

which require consultation with the Offices of Enforcement and Compliance Assurance (OECA) and/or General Counsel (OGC) serves as the regional contact to those offices on the issue).

- Serves as national legal expert in enforcement and legal counseling within the area of specialized expertise (e.g., concerning Clean Air Act cases and matters for the Senior Counsel for Air and concerning Clean Water Act cases and matters for the Senior Counsel for Water); shares expertise with other Agency attorneys.
- Provides general legal advice and (upon request) policy recommendations concerning 1) Regional programs, operations and activities in areas assigned by management; 2) enforcement cases and matters; and 3) grant programs.
- Drafts and/or reviews final Agency determinations, proposed and final regulations, notices and other Agency actions under the federal environmental laws that the Agency administers.
- Manages and coordinates defensive and enforcement litigation resulting from the Region's activities under the statutes administered by the Agency, particularly concerning the area of legal expertise.
- As to matters in litigation, 1) conducts discovery and prepares motions, briefs and other litigation documents; 2) appears before courts and administrative tribunals to conduct trials, hearings and oral arguments as appropriate; 3) works closely with OECA, OGC and the Department of Justice.
- Represents the Region in dealings with outside parties concerning enforcement, defensive and legal counseling matters. Represents the Region in negotiating the settlement of disputed matters so as to avoid protracted and expensive litigation and facilitate expeditious administration of Agency programs.
- Represents the Region at conferences and meetings held with other federal departments and agencies, Congressional Committees and individual congressmen and senators, governors of states and staff offices of governors, state and local officials, and representatives of private industry and special interest groups. In this capacity, gives expert legal advice with respect to many novel legal situations and problems.
- Services as liaison with OECA and OGC in the area of legal expertise.
- Coordinates and directs the work of one or more lower-graded attorneys, including reviewing major or precedential efforts of those attorneys and assisting management in conducting performance evaluations of those lower-graded attorneys.
- Within the area of specialized expertise, has wide latitude 1) in planning and carrying out assignments without preliminary instructions, 2) in prioritizing workload, 3) directing and coordinating the efforts of staff members, 4) conducting research, 5) preparing documents, 6) exercising legal judgment and initiative in completing assignments, and 7) making legal judgments and policy recommendations. Completed work is not usually reviewed for consistency with Agency policy, precedential effect, or overall quality.

Application materials must be submitted to Darlene Weatherspoon by June 24, 2016. Because I expect a number of applicants for each position, I will appoint a panel (both Branch Chiefs and a third panel member from outside ORC) who will review all expressions of interest and resumes for each position (two applicant

pools). They will select the most qualified applicants for each position. The screening panel will refer the best qualified candidates for each position to a panel comprised of the Regional Counsel, the Deputy Regional, and another senior management official. The senior management panel will review the applications and conduct interviews. We hope to be able to conduct all interviews as soon as possible, and to make selections shortly thereafter. Once we have made our decision, our proposed selections will be sent to OECA and the Shared Service Center for processing before the selections are final and can be announced.

We know there will be much interest in these positions. We look forward to participating in the meeting that will take place on June 16, 2016, at 1:30 PM in the Lake Huron Room. Management will be available with a facilitator present, in order to give everyone present an opportunity to ask questions about promotion practices. That meeting may lay the groundwork for future sessions as well.

Should you have any questions about any of the above, please do not hesitate to ask. Thank you.

-Rett

T. Leverett Nelson
Regional Counsel
U.S. EPA, Region 5
Chicago, IL
Tel.: 312-886-6666

Position Description
General Attorney

GS-905-15

I. Introduction

Serves as a senior attorney in the Office of Regional Counsel (ORC). The attorney has responsibility for representing EPA in legal proceedings, and providing legal advice and assistance and policy recommendations to management and colleagues throughout the region in assigned areas of responsibility. The attorney coordinates the entire workload of the office in assigned areas of responsibility, and is knowledgeable about the work of other attorneys who are assigned to work on matters within such areas of responsibility. The attorney is supervised by an Associate Regional Counsel who serves as a Supervisory Attorney in ORC.

II. Major Duties and Responsibilities.

At this level, the attorney will be responsible for all legal aspects of a Clean Air Act enforcement and legal counseling within the Region. These matters will involve a wide variety of extremely complex and unusual matters requiring extensive knowledge and a very high degree of expertise as well as extensive legal research and analysis, together with consideration of highly complicated factual and policy issues. In addition to factual, policy and legal complexity, the matters often involve multiple parties, statutes or environmental media, and require the understanding of abstruse scientific or technical principles that are subject to different interpretations by experts. Finally, the matters impact major industry, private or public interests, involve enormous sums of money, and often are rigorously contested by some of the nation's most distinguished, capable and highly paid attorneys.

The attorney will be a principal attorney in the Region for interpreting for the Regional Administrator and the Regional program managers a substantial body of Agency regulations and defending these regulations and Agency actions before Federal trial and appellate courts. Matters assigned may have the effect of substantially broadening or restricting the Agency's activities and may have an important impact on major industries in the Region. The attorney will review and coordinate the activities of lower graded attorneys assigned to help carry out the specific elements of the attorney's duties and responsibilities.

A. Legal Research and Problem Resolution. As assigned, researches and resolves the legal questions which arise under all regulations, lawsuits, enforcement actions, executive orders and other administrative actions involving major Federal statutes affecting the Agency's programs, which may include such statutes as the Clean Water Act, the Clean Air Act, the Oil Pollution Act, the Toxic Substances Control Act, the Safe Drinking Water Act, the Resource Conservation and Recovery Act, the National Environmental Policy Act, the Comprehensive Environmental Response Compensation and Liability Act, the Emergency Planning and Community Right-to-know Act, and the Federal Insecticide, Fungicide and Rodenticide Act (in each case as from time to time amended.), but with particular emphasis on legal questions under

the Clean Air Act. In areas assigned by management, is the focal point within the Region for resolution of legal issues arising under such statutes (for matters of national importance which require consultation with the Offices of Enforcement and Compliance Assurance (OECA) and/or General Counsel (OGC), is the regional contact to those offices on the issue).

B. General Legal Advice and Policy Recommendations. Either acting directly or through management provides the Regional Administrator, Deputy Regional Administrator and the Regional Offices with general legal advice and (upon request) policy recommendations concerning those Regional programs, operations and activities in areas assigned by management so that their major decisions are made with applicable legal considerations in mind.

C. Legal Advice, Policy Recommendations, and Other Assistance on Enforcement Matters. As assigned, represents EPA, and provides legal advice and policy recommendations to the Regional program managers responsible for enforcement matters. Prepares and assists in the preparation of major legal correspondence, notices of violation, administrative orders, litigation referrals and other enforcement documents and reviews such documents for legal sufficiency and consistency with Agency legal interpretations and policy guidance. Is responsible for assuring that reporting systems are kept current with information on Regional enforcement matters. Assists in developing the factual bases for enforcement actions, including field sampling, inspections, and other types of compliance activities.

D. Legal Advice and Policy Recommendations to Grant Programs. Provides legal advice and policy recommendations to managers of Agency grant programs, as assigned by management. Advises on the eligibility for Agency funding of cost items under Agency grants, including cost overruns by contractors on Agency-funded projects. Works closely with the Agency's Office of Inspector General in resolving problems arising under audit activities and investigations. Drafts special grant conditions to cover unusual or unique situations. Assists state attorneys in interpreting statutes and regulations administered by the Agency, advising on the handling of claims matters and generally serving the needs of programs which have been delegated by the Agency to state agencies. Prepares final Agency decisions on bid protests arising under grantee procurement. Conducts the Region's participation in grant appeal proceedings.

E. Drafting of Determinations, Regulations, Notices, etc. As assigned, drafts and/or reviews final Agency determinations, proposed and final regulations, notices and such other documents to be published in the Federal Register, including Agency actions on state air pollution plans, designations of sole source aquifers under the Safe Drinking Water Act, approvals and authorizations of state programs under the Clean Water Act, the Clean Air Act, the Resource Conservation and Recovery Act, the Federal Insecticide, Fungicide and Rodenticide Act and other Federal environmental statutes.

F. Litigation Matters. Manages and coordinates defensive and enforcement litigation resulting from the Region's activities under the statutes referred to above. Conducts discovery and prepares motions, briefs and other litigation documents. Appears before courts and administrative tribunals to conduct trials, hearings and oral arguments as appropriate. Works closely with OECA and OGC, in the EPA Washington office, and the Department of Justice or

U.S. Attorneys. Coordinates with state attorneys general. Represents the Region in administrative proceedings of EPA and other agencies.

G. Negotiation and informal Dispute Regulation. Represents the Region in its dealings with outside parties, including negotiation of agreements, consent orders and judgments, and memoranda of understanding. Represents the Region in negotiating the settlement of disputed matters so as to avoid protracted and expensive litigation and facilitate expeditious administration of Agency programs.

H. Representation of the Region. Represents the Region at conferences and meetings held with other Federal departments and agencies, Congressional committees and individual congressmen and senators, the General Accounting Office, governors of states and staff offices of governors, state and local officials, representatives of private industry and farm groups, etc. and in this capacity is required to give expert legal advice with respect to many novel legal situations and problems arising from the administration of Regional programs. Prepares and delivers advice and testimony to state legislative bodies in connection with their deliberations on assumption of responsibilities for programs to be delegated by the Agency.

I. Liaison with OECA or OGC. Serves as liaison between the Region and OECA and OGC to provide an effective channel of communication in order to assure that the Region obtains legal judgments and policy advice from such offices and also to assure that such offices are able to base such judgments and such advice upon accurate perceptions of the pertinent facts and Regional program objectives.

J. Coordinating and Directing Legal Work. May coordinate and direct the work of one or more lower-graded attorneys. Retains familiarity with and reviews major or precedential efforts of such attorneys. The review functions include ensuring that (1) written material is clear, precise, and of high quality, (2) prompt and accurate advice is provided to the Regional managers of programs within assigned areas, and (3) oral presentations, whether before courts or other public bodies, are of high quality. Participates in the recruiting and hiring of attorneys, and provides other attorneys with opportunities for professional growth through work experience and training. Assists management in conducting performance evaluations of lower graded attorneys.

K. Subject Matter Expertise. Serves as a national legal expert in Clean Air Act enforcement and legal counseling. Maintains specialized expertise in such areas and serves as a consultant to other attorneys in the Agency. May manage a task force of Regional attorneys in seeking solutions to common legal problems or in preparing guidance documents, model agreements, regulations, pleadings, etc. In this capacity, serves as the liaison between OECA and OGC, and the regional legal offices. Arranges conference calls, meetings and other means of exchanging information among Regional attorneys.

L. Other Duties. Performs other duties as assigned.

III. Supervisory Controls.

The Attorney reports to a Supervisory Associate Regional Counsel and has an attorney-client relationship with all Regional program managers or colleagues for whom work is performed. Areas of responsibility are assigned by management, and within those areas of responsibility the attorney has wide latitude in planning and carrying out assignments, without preliminary instructions, prioritizing workload, directing and coordinating the efforts of staff members, conducting research, preparing documents and exercising judgment and initiative in completing assignments and making legal judgments and policy recommendations. Legal advice, policy recommendations and advocacy during adversarial proceedings are normally considered expert, and consistent with policy. The attorney's recommendation is usually tantamount to final decisions as to the Agency's legal position, in terms of whether to proceed with a case, or how to interpret or apply a policy or regulation. Within assigned areas of responsibility, the attorney accepts work request directly from Regional program managers. The attorney's work involves recurring contacts with important and high level officials in the region, EPA, the Federal government, and private industry.

The attorney is expected to represent management from time to time in areas of assigned responsibility, including at national EPA meetings, although consultation and discussion with management may be necessary in connection with major legal judgments, policy recommendations, or management issues. Completed work is not usually reviewed for consistency with Agency policy, precedential effect and overall quality. The attorney may rotate areas of assigned responsibility with other attorneys from time to time. Management is to be consulted generally on matters arising in the course of coordinating and directing the work of lower graded attorneys who work in the assigned areas of responsibility, and retains all supervisory authority.

IV. Qualifications

The attorney must have the equivalent of the JD or LLB degree from an accredited law school and be a member of the bar.

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At this level, the attorney will be responsible for all legal aspects of a Clean Water Act enforcement and legal counseling within the Region. These matters will involve a wide variety of extremely complex and unusual matters requiring extensive knowledge and a very high degree of expertise as well as extensive legal research and analysis, together with consideration of highly complicated factual and policy issues. In addition to factual, policy and legal complexity, the matters often involve multiple parties, statutes or environmental media, and require the understanding of abstruse scientific or technical principles that are subject to different interpretations by experts. Finally, the matters impact major industry, private or public interests, involve enormous sums of money, and often are rigorously contested by some of the nation's most distinguished, capable and highly paid attorneys.

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